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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 September 2005</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-11, 20, 21 and 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Matthews, III (Matthews) (5,874,985) (of record) in view of Hendricks

et al. (Hendricks) (5,559,549) (of record).

As to claim 1, Matthews discloses a method for providing customizable

multimedia messages over a television system to a communications terminal for

presentation to a user (Fig. 1; column 1, lines 9-12), comprising:

creating at least one message configuration (wherein message formats were

created and stored in memory, 68; column 5, lines 60-67);

sending the at least one message configuration to the communication terminal

(column 5, lines 60-67), each message configuration having parameters for defining

how the customizable multimedia message is presented to the user (column 6, lines 48-

53);

receiving the at least one message configuration at the communication terminal

(wherein the format information is received in some form to be stored in memory;

column 5, lines 60-67) at a first clock time (at a time before the messages are

transmitted to the terminal; column 5, lines 44-67);

creating a first message activation request (column 5, lines 44-48 and column 6,

lines 12-14) for presenting a first message content to the at least one message

configuration (column 6, lines 14-21), wherein the first message activation request

includes a message content expression (the message of text, audio or video; column 6,

lines 14-25) and an identification of the at least one message configuration (message

format indicator; column 6, lines 14-18); and

at a second clock time after the first clock time (wherein the format information

was stored in memory before the message request was information; column 5, lines 44-

67) sending the message request from the multimedia messaging server (column 6,

lines 12-15 and column 7, lines 26-39) to the communications terminal over the

television system (column 6, lines 30-37).

While Matthews discloses wherein the terminal receives a message configuration

(message formats stored in memory, 68; column 5, lines 60-67), he fails to specifically

disclose receiving the message configuration from the application server.

In an analogous art, Hendricks discloses a digital television distribution system

(Fig. 1; column 2, lines 61-65) wherein a server (operations center, 202; Fig. 1) will

generate and transmit message content (column 13, lines 36-55) and configuration

information (column 10, lines 37-57 and column 13, lines 51-67) the configuration

information having parameters for defining how the customizable information is

presented to the user (column 10, lines 48-53 and column 13, lines 51-67) to a home

terminal (set top terminals; column 10, lines 37-57 and column 13, lines 51-67) which is stored in the home terminal (column 10, lines 37-57 and column 13, lines 51-67) for the typical benefit of allowing the format information to be updated and changed when desired (column 13, lines 64-67).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the format information to be updated and changed when desired.

As to claim 2, Matthews and Hendricks disclose wherein the message content expression comprises the first message content (the message of text, audio or video; see Matthews at column 6, lines 14-25).

As to claims 3 and 4, while Matthews and Hendricks disclose wherein the content expression comprises the content, they fail to specifically disclose a location reference to the first message content and delivering the content from a location reference.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit a location reference to identify a location from which to retrieve message content, such as utilized by the well known ATVEF standard, for the typical benefit of allowing the receiver to easily locate and display content from sources other then the broadcast provider.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks system to include a location reference to the first message content and delivering the content from a location reference for the typical benefit of allowing the receiver to easily locate and display content from sources other then the broadcast provider.

As to claim 5, while Matthews and Hendricks disclose transmitting the configuration information during a first clock time, they fail to specifically disclose wherein the first clock time corresponds to a time during a boot-up procedure of the communications terminal.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit updated information to a receiver at boot-up or initialization for the typical benefits of ensuring that a recently activated system has the most current information.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks system to include wherein the first clock time corresponds to a time during a boot-up procedure of the communications terminal for the typical benefit of allowing the receiver to easily locate and display content from sources other then the broadcast provider.

As to claim 6, Matthews and Hendricks disclose wherein the step of sending the

first message activation request includes textual content as at least a portion of the

message content expression (see Matthews at column 6, lines 21-25).

As to claims 7 and 8, Matthews and Hendricks disclose wherein the step of

creating the message request includes creating audio content as at least a portion of

the message content (see Matthews at column 6, lines 21-25).

As to claim 9, Matthews and Hendricks disclose wherein the step of sending the

first message activation request includes sending message content consisting of a

ticker tape (see Matthews at scrolling text; Fig. 4B; column 5, lines 30-35).

As to claim 10, Matthews and Hendricks disclose wherein responsive to receiving

the first message activation request from the application server (see Matthews at

column 6, lines 37-53), the communications terminal provides the first message content

to a user according to the at least one message configuration (see Matthews at column

6, lines 37-53).

As to claim 11, Matthews and Hendricks disclose wherein the at least one

message configuration corresponds to a default message configuration (see Hendricks

at column 13, lines 58-61) and the identification of the at least one message

configuration in the first message activation request is according to the absence of a

message configuration expression in the first message activation request (see

Hendricks at column 13, lines 58-61).

As to claim 20, while Matthews discloses a system for providing customizable

messages over a television system to a communications terminal for presentation to a

user (Fig. 1; column 1, lines 9-12), comprising:

a multimedia messaging server (Fig. 1; service and application server 202a) that

receives (based on decisions of an operator; column 2, lines 67-65, column 3, lines 1-5

and column 7, lines 35-39) at least one message configuration (column 6, lines 14-21)

and associates message content (column 6, lines 21-25 and column 7, lines 35-39) for

presentation to a user according to the at least one message configuration (column 6,

lines 48-53) and generates a request according to the at least one message

configuration (column 6, lines 30-37), the request including the message content and a

message configuration expression (column 6, lines 12-18) for delivery over a television

system to a communications terminal associated with the user (column 6, lines 30-37),

wherein the multimedia messaging server is located in a headend (see Fig. 1); and

a multimedia messaging client (Fig. 1; controller 20) that receives the request

(column 6, lines 44-47) and associates the message content and the message

configuration for presentation of the message content according to the message

configuration (column 6, lines 44-53), he fails to specifically disclose multiple application

servers that generate at least one message configuration.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein a headend (Fig. 1, 208) will receive configuration information (column 10, lines 37-57 and column 13, lines 51-67) from multiple sources (column 8, lines 29-57) and transmit the information to a home terminal (set top terminals; column 10, lines 37-57 and column 13, lines 51-67) through a messaging server (signal processor, 209 processing the signals for transmission; column 8, line 58-column 9, line 22) for the typical benefit of allowing the multiple sources of information to transmit information to the user (column 8, lines 29-57 and column 13, lines 51-67).

Additionally, the examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize servers to receive and process incoming signals, such as in a cable headend, for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the multiple sources of information to transmit information to the user.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include to utilize servers to receive and process incoming signals for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

As to claim 21, Matthews and Hendricks disclose wherein the message

configuration expression comprises a location reference (identifying the message format

in memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column

6, lines 44-47) that is utilized by the multimedia messaging client in retrieving the

message configuration for use in presenting the message content by the

communications terminal (see Matthews at column 6, lines 44-46).

As to claim 24, Matthews and Hendricks disclose wherein the multimedia

messaging client (see Matthews at Fig. 2; controller 20) includes a client application

(graphics subsystem, 72) and a configuration manager (CPU, 66), wherein the

configuration manager provides the client application (see Matthews at column 6, lines

44-46 and column 4, lines 48-52) with the message configuration associated with the

message content (see Matthews at column 5, lines 60-67 and column 6, lines 1-5).

3.   Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Matthews in view of Hendricks and Freeman (6,020,980) (of record).

As to claim 25, while Matthews discloses a system for delivery of multimedia

messages, comprising:

a multimedia messaging server (service and application servers, 202a) which

generates a request (column 7, lines 35-39) that comprises message content (the

message of text, audio or video; column 6, lines 14-25 and column 7, lines 35-39) and a

message configuration expression (message format; column 6, lines 14-18), wherein

the multimedia messaging servers is located in a headend (see Fig. 1), he fails to

specifically disclose multiple application servers that generate message content and a

database of predefined message configurations and wherein the application server

delivers the message content and at least one of the database of predefined message

configurations to the multimedia messaging server.

In an analogous art, Hendricks discloses a digital television distribution system

(Fig. 1; column 2, lines 61-65) wherein a headend (Fig. 1, 208) will receive content

(column 13, lines 36-55) and configuration information (column 10, lines 37-57 and

column 13, lines 51-67) from multiple sources (column 8, lines 29-57) and transmit the

information to a home terminal (set top terminals; column 10, lines 37-57 and column

13, lines 51-67) through a messaging server (signal processor, 209 processing the

signals for transmission; column 8, line 58-column 9, line 22) for the typical benefit of

allowing the multiple sources of information to transmit information to the user (column

8, lines 29-57 and column 13, lines 51-67).

Additionally, the examiner takes Official Notice that it was notoriously well known

in the art at the time of invention by applicant to utilize servers to receive and process

incoming signals, such as in a cable headend, for the typical benefit of receiving and

processing transmitted signals through well known and commonly utilized servers.

Further, in an analogous art, Freeman discloses a communication system (Fig. 1)

wherein a server (fax server, 122) will receive message content to be transmitted

(column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined

message configurations (column 8, 33-36 and lines 43-51) to determine the correct file

configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the typical benefit of choosing the correct message format in a system ensuring subscribers receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the multiple sources of information to transmit information to the user.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include to utilize servers to receive and process incoming signals for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

Further, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendrick's system to include a database of predefined message configurations, as taught by Freeman, for the typical benefit of choosing the correct message format to ensure subscribers receive messages in their preferred format.

As to claim 26, Matthews, Hendricks and Freeman disclose wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6, lines 44-47).

4.   Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Matthews in view of Tanaka (US2003/0115600) (of record).

As to claim 13, Matthews discloses a method for receiving customizable

multimedia messages over a television system at a communications terminal for

presentation to a user (column 1, lines 9-12), comprising:

configuring at a multimedia messaging server (application servers, 202a

controlling messaging in control node, 12; column 6, lines 12-25, column 5, lines 44-55

and column 7, lines 26-39) a plurality of different message requests (Figs. 4A and 4B;

column 5, lines 10-22 and lines 36-43 and column 6, lines 48-53) with respective

message content expression (Figs. 4A and 4B; column 6, lines 48-53 and lines 21-25)

and respective message configuration expressions (Figs. 4A and 4B; column 6, lines

48-53 and lines 14-21);

configuring a first type of expression to correspond to including in a message

request a location reference to retrieve message information (identifying the

corresponding message format in memory the set top is to retrieve; column 5, lines 60-

67 and column 6, lines 14-18 and lines 44-47);

configuring a second type of expression to correspond to including in a message

request message information (containing the message of text, audio or video; column 6,

lines 14-25);

receiving at a communication terminal (column 6, lines 12-15) from a multimedia

messaging server (application servers, 202a controlling messaging in control node, 12;

column 6, lines 12-15 and column 7, lines 26-39) a first message request including a

first message content expression (the message of text, audio or video; column 6, lines

14-25) and a first message configuration expression (message format indicator; column

6, lines 14-18);

responsive to receiving the first message request (column 6, lines 30-37),

presenting a first message to a user (column 6, lines 48-53) according to the first

message content expression (column 6, lines 48-53 and lines 21-25) and the first

message configuration expression (column 6, lines 48-53 and lines 14-21);

receiving at the communications terminal (column 6, lines 12-15) from the

multimedia messaging server (application servers, 202a controlling messaging in

control node, 12; column 6, lines 12-15 and column 7, lines 26-39) a second message

request (Figs. 4A and 4B; column 5, lines 10-22 and lines 36-43) including a second

message content expression (the message of text, audio or video; Figs. 4A and 4B;

column 6, lines 14-25) and a second message configuration expression (message

format indicator; Figs. 4A and 4B; column 6, lines 14-18 and lines 10-22); and

responsive to receiving the second message request (Figs. 4A and 4B; column 6,

lines 30-37), presenting a second message to a user (Figs. 4A and 4B; column 5, lines

10-22 and lines 36-43 and column 6, lines 48-53) according to the second message

content expression (Figs. 4A and 4B; column 6, lines 48-53 and lines 21-25) and the

second message configuration expression (Figs. 4A and 4B; column 6, lines 48-53 and

lines 14-21), wherein the second message request includes at least one type of

expression different than the type of expressions in the first message request

(indications of different format types to utilize; Figs. 4A and 4B; column 5, lines 10-35

and column 6, lines 14-21).

While Matthews discloses retrieving message information, he fails to specifically

disclose retrieving message information from a location remote from a communication

terminal.

In an analogous art, Tanaka discloses a television broadcast system (Fig. 1)

wherein detailed information relating to a program or other data (paragraph 142, lines 1-

8) is retrieved from a remote server based upon address information transmitted to the

receiver (paragraph 9 and paragraph 10, lines 4-10), for the advantage of allowing the

use of a receiver without an large storage means (paragraph 8 and paragraph 11).

Consequently, it would have been obvious to one of ordinary skill in the art at the

time of invention by applicant to modify Matthews' system to include retrieving the

message configuration from a remote location, as taught by Tanaka, for the advantage

of allowing the use of a receiver without an large storage means in the current message

transmission system.

As to claim 14, Matthews discloses retrieving the message configuration utilizing

the first message configuration expression, wherein the first message configuration

expression corresponds to the first type of expression (identifying the message format in

memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6,

lines 44-47 and Tanaka at paragraph 9 and paragraph 10, lines 4-10).

As to claim 15, Matthews and Tanaka disclose wherein the step of presenting a first message includes presenting a message content according to the first message content expression (the message of text, audio or video; see Matthews at column 6, lines 14-25) and the first message configuration expression (message format indicator; see Matthews at column 6, lines 14-18), wherein the first message configuration expression corresponds to the second type of expression (message format indicator; see Matthews at column 6, lines 14-18).

As to claim 16, Matthews and Tanaka disclose wherein the second message configuration expression corresponds to the first type of expression (indicating the message format to be retrieved; see Matthews at column 6, lines 14-18 and Tanaka at paragraph 9 and paragraph 10, lines 4-10).

As to claim 17, while Matthews and Tanaka disclose wherein the content expression comprises message information, they fail to specifically disclose a location reference to retrieve message information.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit a location reference to identify a location from which to retrieve message content, such as utilized by the well known ATVEF standard, for the typical benefit of allowing the receiver to easily locate and display content from sources other then the broadcast provider.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Tanaka's system to include a location reference to the first message content and delivering the content from the location reference for the typical benefit of allowing the receiver to easily locate and display content from sources other then the broadcast provider.

As to claim 18, Matthews and Tanaka disclose wherein the first message content expression corresponds to the second type of expression (the message of text, audio or video; see Matthews at column 6, lines 14-25).

As to claim 19, while Matthews and Tanaka disclose a content configuration expression in a message request, they fail to specifically disclose wherein an absence of a message configuration expression corresponds to a default message configuration.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a default in the absence of a specific signal, whereby the system is to assume the default unless told otherwise, for the typical benefit of allowing the receiver to quickly process incoming messages by using the most common default setting in the absence of any other corresponding command.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Tanaka's system to include wherein an absence of a message configuration expression corresponds to a default message configuration for the typical benefit of allowing the receiver to quickly process incoming

messages by using the most common default setting in the absence of any other

corresponding command.

5.   Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Matthews and Hendricks as applied to claim 20 above, and further in view of Jennings

(5,781,186) (of record).

As to claim 22, while Matthews and Hendricks disclose a message configuration

expression for use in presenting the message content by the communication terminal,

he fails to specifically disclose wherein the message configuration expression

comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1;

column 1, lines 7-8) wherein the presentation of messages is determined by

presentation components contained within the message itself (column 1, lines 63-67

and column 2, lines 1-4) for the advantage of enabling a message to specify exactly

how it should be presented without the need for any additional programming or

equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the

time of invention by applicant to modify Matthews and Hendricks system to include

wherein the message configuration expression comprises the message configuration,

as taught by Jennings, for the advantage of enabling a message to specify exactly how

it should be presented without the need for any additional programming or equipment to

be incorporated into the existing messaging system.

6.   Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Matthews, Hendricks and Freeman as applied to claim 25 above, and further in view of

Jennings.

As to claim 27, while Matthews, Hendricks and Freeman disclose a message

configuration expression, they fail to specifically disclose wherein the message

configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1;

column 1, lines 7-8) wherein a created message contains components of both the

message (column 1, lines 63-67) and presentation components (which determine how

the message is displayed; column 2, lines 1-4) for the advantage of enabling a message

to specify exactly how it should be presented without the need for any additional

programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the

time of invention by applicant to modify Matthews, Hendricks and Freeman's system to

include wherein the message configuration expression comprises the message

configuration, as taught by Jennings, for the advantage of enabling a message to

specify exactly how it should be presented without the need for any additional

programming or equipment to be incorporated into the existing messaging system.

7.   Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Matthews and Hendricks as applied to claim 20 above, and further in view of Freeman.

As to claim 23, while Matthews and Hendricks disclose the selection of a

message configuration by the multimedia server, they fail to specifically disclose a

database of message configurations accessible by the messaging server.

In an analogous art, Freeman discloses a communication system (Fig. 1)

wherein a server (fax server, 122) will receive message content to be transmitted

(column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined

message configurations (column 8, 33-36 and lines 43-51) to determine the correct file

configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the

typical benefit of choosing the correct message format in a system ensuring subscribers

receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Matthew and Hendricks' system to include a database

of predefined message configurations accessible by the messaging server, as taught by

Freeman, for the typical benefit of choosing the correct message format to ensure

subscribers receive messages in their preferred format.

8.   Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Matthews and Hendricks as applied to claim 1 above, and further in view of Davis et al.

(Davis) (5,822,123).

As to claim 12, while Matthews and Hendricks disclose creating a second

message activation request for presenting a second message content to the user

according to the at least one message configuration (see Matthews at Figs. 4A and 4B;

column 5, lines 10-22 and lines 36-43 and column 6, lines 14-18 and lines 10-22), and

presenting a second message content to the user according to the at least one

message configuration (see Matthews at Figs. 4A and 4B; column 5, lines 10-22 and

lines 36-43 and column 6, lines 48-53 and lines 14-21), they fail to specifically disclose

creating a message at the communications terminal.

In an analogous art, Davis discloses a broadcast receiver (Fig. 1; column 8, lines

66-column 9, line 20) which will create a message to be displayed to the user (column

21, lines 24-34) when the user tunes to a channel they are not subscribed to (column

21, lines 24-34) for the typical benefit of allowing users to see and order additional

channels and programming they are not currently subscribed to (column 21, lines 21-

34).

It would have been obvious to one of ordinary skill in the art at the time of

invention by applicant to modify Matthew and Hendricks' system to include creating a

message at the communications terminal, as taught by Davis, for the typical benefit of

allowing users to see and order additional channels and programming they are not

currently subscribed to receive.

Response to Arguments

9.   Applicant's arguments with respect to claims 13-19 have been considered but are

moot in view of the new ground(s) of rejection.

10.   Applicant's arguments filed 09/23/05, have been considered, but are not

persuasive.

a.   On pages 12 and 13 of applicant's response, applicant argues that

Matthews fails to specifically disclose wherein an application server will create

and send a message configuration.

In response to applicant's arguments against the references individually,

one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

As indicated in the rejections above, the examiner has indicated that

Matthews does not appear to disclose this feature. While Matthews has

message formats stored in memory in the receiver and transmitting a message

indicator to the receiver, he does not specifically state that the message formats

are created and transmitted from the application server. Hendricks was in fact

relied upon to teach this limitation.

b.   On page 13, applicant argues that Hendricks does not disclose, teach or

suggest providing customizable multimedia messages over a television system.

In response, one cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of

references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981);

In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

i.   As indicated in the rejections above, Matthews was relied upon to

disclose the specific features of providing customizable multimedia

messages over a television system. Hendricks was merely introduced to

disclose transmitting format information over the television system from

the head-end to the user's receiver.

ii.   Hendricks specifically discloses transmitting customizable textual

information to a user (column 13, line 27-column 14, line 6). This clearly

meets the broad claim limitation of a "message".

c.   In response to applicant's arguments on pages 14-15, see (b) and the

rejections above.

d.   On pages 16 and 17, applicant argues that Matthews fails to disclose a

multimedia messaging server that receives at least one message configuration

from multiple application servers and associates message content for

presentation to a user according to at least one message configuration, ...

wherein the multiple application server and multimedia server are located in the

headend.

In response to applicant's arguments against the references individually,

one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

Applicant is directed to the rejections above wherein it is indicated that

while Matthews discloses a multimedia messaging server (Fig. 1; service and

application server 202a) that receives (based on decisions of an operator;

column 2, lines 67-65, column 3, lines 1-5 and column 7, lines 35-39) a message

configuration (column 6, lines 14-21), he was **not** relied upon to teach multiple

application servers that generate at least one message configuration in the

headend. As indicated in the rejections above, it was the Hendricks reference

which was relied upon to disclose receiving multiple message configurations.

Further, an Official Notice was included disclosing the widespread common use

of servers in a headend to receive and process information transmitted across a

network.

e.   In response to applicant's arguments on pages 17-19, in regards to the

combination of Hendricks with Matthews, see the rejections, (b) and (d) above.

f.   On pages 19 and 20, applicant argues that Matthews fails to disclose each

application server delivers the message content and at least one of the database

of predefined message configurations to the multimedia message server, ...

wherein the multiple application servers and the multimedia messaging server

are located in the headend."

In response to applicant's arguments against the references individually,

one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

Applicant is directed to the rejections above wherein it is indicated that

while Matthews discloses a multimedia messaging server that receives content

and a message configuration, he was **not** relied upon to teach multiple

application servers that generate at least one message configuration in the

headend and a database of predefined message configurations. As indicated in

the rejections above, it was the Hendricks reference which was relied upon to

disclose receiving multiple message configurations. Further, an Official Notice

was included disclosing the widespread common use of servers in a headend to

receive and process information transmitted across a network. Finally, it was the

Freeman reference was relied upon to disclose the use of a database of

predefined message configurations.

g.   In response to applicant's arguments on pages 20-22, in regards to the

combination of Hendricks with Matthews, see the rejections, (b) and (d) above.

h.   On page 22, applicant argues that Freeman fails to disclose "each

application server delivers the message content and at least one of the database

of predefined message configurations to the multimedia messaging server, which

is response thereto, generates a request that comprises the message content

and a message configuration expression.

In response to applicant's arguments against the references individually,

one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986).

As indicated in the rejections and (f) above, Freeman was only relied upon

to disclose the use of a database of predefined message configurations. The

application and messaging servers, and any functionality therein, are clearly

indicated as being previously taught by the combination of Matthews and

Hendricks in the rejections and (f) above.

i.   In response to applicant's arguments on page 22 and 23, in regards to the

combination of Matthews, Hendricks and Freeman, see the rejections and (f)-(h)

above.

j.   In response applicant's traversal of *all* of the Official Notices in the

previous action, it is noted that the MPEP clearly states that to adequately

traverse a finding of Official Notice, an applicant must specifically point out the

supposed errors in the examiner's action, which would include stating why the

noticed fact is not considered to be common knowledge or well-known in the

art... If applicant does not traverse the examiner's assertion of official notice or

applicant's traverse is not adequate, the examiner should clearly indicate in the

next Office action that the common knowledge or well-known in the art statement

is taken to be admitted prior art because applicant either failed to traverse the

examiner's assertion of official notice or that the traverse was inadequate."

See MPEP 2144.03

In this case, applicant has not specifically requested any evidentiary

support with respect to references or specifically pointed out the supposed errors

in the examiner's action, which would include stating why the noticed fact is not

considered to be common knowledge or well-known in the art. Applicant's

general statement that none of the Official Notices include specific factual

findings predicated on sound technical and scientific reasoning to support the

conclusions does not point out any specific error or reason as to why any of the

facts were not common knowledge or well-known in the art, and thus does not

constitute a proper traversal. A blanket traversal to any and all Official Notices

does not specifically point out any supposed errors.

Further, applicant's traversal is not persuasive. Applicant is directed to the

rejections above where it is found that all of the previous Official Notices do in

fact include specific factual findings predicated on sound technical reasoning to support the conclusions.

The Official Notices taken that it was well known to transmit a location reference to identify a location from which to retrieve message content, utilize a default in the absence of a specific signal, whereby the system is to assume the default unless told otherwise and utilize servers to receive and process incoming signals, are hereby taken to be admitted prior art because applicant's traversals were in inadequate.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12.   The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
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Typed or printed name of person signing this certificate:

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( )_____ - _____ on _____.
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Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to James Sheleheda whose telephone number is (571)

272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
Art Unit 2617

JS

VIVEK SRIVASTAVA
PRIMARY EXAMINER